

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED  
June 24, 2024  
LAURA A. AUSTIN, CLERK  
BY: s/A. Beeson  
DEPUTY CLERK

<b>THOMAS ROBERT CRAIG, JR.,</b> Plaintiff,	)	
	)	Civil Action No. 7:23cv00656
	)	
v.	)	<b><u>ORDER</u></b>
	)	
<b>MR. THOMPSON, RNCB,</b> Defendant.	)	By: Pamela Meade Sargent
	)	United States Magistrate Judge

Thomas Robert Craig, Jr., (“Craig”), a Virginia inmate proceeding pro se, has filed a civil rights action against the defendant under 42 U.S.C. § 1983, alleging “Negligence; Failure to provide proper treatment was cruel and unusual punishment under Va. Const. art. I 9.” The only named defendant, Mr. Thompson, does not appear to be the treating physician.

Having reviewed the complaint pursuant to 28 U.S.C. § 1915A, it is now **ORDERED** as follows:

- (1) The complaint shall remain conditionally filed pending satisfaction of the requirements set forth herein;
- (2) Craig is advised that his complaint fails to state a claim under § 1983. To state a claim under § 1983, a plaintiff must allege a violation of a right secured by the United States Constitution or laws of the United States and must show that violation was committed by a person acting under color of state law. *See Loftus v. Bobzien*, 848 F.3d 278, 284–85 (4<sup>th</sup> Cir. 2017). Liability under § 1983 is “personal, based upon each defendant’s own personal constitutional violations.” *Trulock v. Freeh*, 275 F.3d 391, 402 (4<sup>th</sup> Cir. 2001). Thus, a § 1983 claim must contain concise factual detail explaining each defendant’s personal

involvement. *See Wilcox v. Brown*, 877 F.3d 161, 170 (4<sup>th</sup> Cir. 2017) (affirming dismissal of claim where plaintiff did not allege personal involvement of the defendant in violating his rights);

- (3) Craig has not explained how or why Mr. Thompson is liable to him, nor has he identified as defendants the person or persons whom he alleges provided inadequate medical care. Finally, he has alleged negligence, but medical negligence or malpractice “does not become a constitutional violation merely because the victim is a prisoner.” *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). To state a constitutional medical claim cognizable under § 1983, the plaintiff must allege facts showing that the defendant acted with “deliberate indifference to serious medical needs.” *Estelle*, 429 U.S. at 106;
- (4) Because plaintiff is acting pro se, the court will give him 30 days to file an amended complaint to correct the noted deficiencies. **In order to proceed with this action, plaintiff must file an amended complaint, naming as a defendant every person he intends to bring the action against and specifically describing how each person violated his federal rights.** The amended complaint must be a new pleading, complete in all respects, which stands by itself without reference to any earlier filed complaint, letters, or pleadings. **PLAINTIFF IS ADVISED THAT HIS FAILURE TO FILE AN AMENDED COMPLAINT WITHIN 30 DAYS AFTER ENTRY OF THIS ORDER WILL RESULT IN THE DISMISSAL OF THE CASE FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED.** If Craig needs additional time to file his complaint or does not want to proceed at this time, he may voluntarily dismiss his complaint without prejudice and file a new complaint when

he is prepared to do so, subject to the applicable statute of limitations;  
and

- (5) The Clerk is directed to send a copy of this Order to Craig, along with a blank complaint form to use for filing his amended complaint.

It is so **ORDERED**.

**ENTERED:** June 24, 2024.

/s/ Pamela Meade Sargent  
UNITED STATES MAGISTRATE JUDGE

AMENDED COMPLAINT  
IN THE UNITED STATES DISTRICT COURT  
Western District of Virginia

Ballou

\_\_\_\_\_  
District Judge  
(Assigned by Clerk's Office)

Sargent

\_\_\_\_\_  
Mag. Referral Judge  
(Assigned by Clerk's Office)

CIVIL ACTION NO. 7:23cv00656  
(Assigned by Clerk's Office)

For use by Inmates filing a Complaint under

**CIVIL RIGHTS ACT, 42 U.S.C. §1983 or BIVENS v. SIX UNKNOWN NAMED AGENTS**  
**OF FED. BUREAU OF NARCOTICS, 403 U.S. 388 (1971)**

\_\_\_\_\_  
Plaintiff Name  
v.

\_\_\_\_\_  
Inmate No.

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

**IF YOU NEED TO ADD MORE DEFENDANTS, USE A SEPARATE SHEET OF PAPER, AND PUT  
NAME AND ADDRESS FOR EACH NAMED DEFENDANT.  
TITLE THE SECOND PAGE "CONTINUED NAMED DEFENDANTS"**

A. Where are you now? Name and Address of Facility:

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B. Where did this action take place?

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C. Have you begun an action in state or federal court dealing with the same facts involved in this complaint?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

If your answer to A is Yes, answer the following:

1. Court: \_\_\_\_\_

2. Case Number: \_\_\_\_\_

D. Have you filed any grievances regarding the facts of this complaint?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

1. If your answer is Yes, indicate the result:

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2. If your answer is No, indicate why:

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E. Statement of Claim(s): State briefly the facts in this complaint. Describe what action(s) each defendant took in violation of your federal rights and include the relevant dates and places. **Do not give any legal arguments or cite any cases or statutes.** If necessary, you may attach additional page(s). Please write legibly.

Claim #1 – Supporting Facts – Briefly tell your story without citing cases or law:

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Claim #2 – Supporting Facts – Briefly tell your story without citing cases or law:

(Additional Supporting Facts may be placed on a separate paper titled ADDITIONAL SUPPORTING FACTS)

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F. State what relief you seek from the Court. Make no legal arguments and cite no cases or statutes.

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G. If this case goes to trial, do you request a trial by jury? Yes \_\_\_\_\_ No \_\_\_\_\_

H. If I am released or transferred, I understand it is my responsibility to immediately notify the court in writing of any change of address *after* I have been released or transferred or my case may be dismissed.

DATED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

VERIFICATION:

I, \_\_\_\_\_, state that I am the plaintiff in this action, and I know the content of the above complaint; that it is true of my own knowledge, except as to those matters that are stated to be based on information and belief, and as to those matters, I believe them to be true. I further state that I believe the factual assertions are sufficient to support a claim of violation of constitutional rights. Further, I verify that I am aware of the provisions set forth in 28 U.S.C. §1915 that prohibit an inmate from filing a civil action or appeal, if the prisoner has, on three or more occasions, while incarcerated brought an action or appeal in federal court that is dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is in imminent danger of serious physical injury. I understand that if this complaint is dismissed on any of the above grounds, I may be prohibited from filing any future actions without the pre-payment of the filing fees. I declare under penalty of perjury the foregoing to be true and correct.

DATED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_